



# PUBLIC NOTICE

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## COMMISSION PROPOSES REVISIONS TO FCC FORMS 395-A AND 395-B

### MM DOCKET NO. 98-204

The Commission has proposed to the Office of Management and Budget (“OMB”) changes to its annual reporting forms that request certain employee data from multichannel video programming distributors (“MVPDs”) (FCC Form 395-A) (OMB Control No. 3060-0095) and from broadcasters (FCC Form 395-B) (OMB Control No. 3060-0390). In its Third Report and Order and Fourth Notice of Proposed Rulemaking in the above-noted proceeding concerning the equal employment opportunity rules governing such entities, the Commission stated that these forms conformed to the racial and employment categories contained in the then-existing Form EEO-1 Employer Information Report issued by Equal Employment Opportunity Commission (the “EEOC”).<sup>1</sup> It noted that the EEOC had proposed to revise its EEO-1 form to incorporate new racial and employment categories approved by OMB. It also noted that, when the revised EEO-1 form was released, the Commission would review its forms to see what changes were needed to comply with the new OMB standards, and whether it could conform the forms to those standards consistent with Sections 334 and 634 of the Communications Act of 1934, as amended (the “Act”).<sup>2</sup>

With the EEOC’s release of the EEO-1 incorporating revised racial and employment categories, the Bureau sought public comment<sup>3</sup> on whether to incorporate the EEOC’s revised categories and whether such changes would be consistent with Sections 334 and 634 of the Act.<sup>4</sup> The public comment period ended on June 6, 2008, and the Commission has completed its review of all the comments and reply comments.<sup>5</sup> The Commission did not receive any comments opposing the incorporation of the EEOC’s revised categories in these FCC’s annual employment reports.<sup>6</sup>

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<sup>1</sup> *Review of the Commission’s Broadcast and Cable Equal Employment Opportunity Rules and Policies*, Third Report and Order and Fourth Notice of Proposed Rulemaking, 19 FCC Rcd 9973, 9977-78 (2004).

<sup>2</sup> 47 U.S.C. §§ 334, 554; *see* 19 FCC Rcd at 9978.

<sup>3</sup> “Media Bureau Seeks Comment on Possible Changes to FCC Forms 395-A and 395-B,” Public Notice, 23 FCC Rcd 5441 (MB 2008) (the “Public Notice”).

<sup>4</sup> 19 FCC Rcd at 9978, note 38. In note 38, the Commission directed the Bureau to seek public comment on whether the EEO-1’s changes to racial and employment categories should be used in Forms 395-A or B.

<sup>5</sup> *Public Notice*.

We have concluded that the proposed changes to FCC Form 395-B are consistent with Section 334 of the Act, which allows the FCC to make nonsubstantive technical or clerical revisions to annual employment reports in order to reflect changes in, *inter alia*, terminology.<sup>7</sup> Because these changes do not subtract any information requested on the form, but rather seek more detail on race identification and official/manager occupations, with minor changes in terminology, we conclude that they are consistent with Section 334. Similarly, the changes to FCC Form 395-A are consistent with the racial and job category data required by Section 634 of the Act because the revisions simply reflect different terminology for the same categories and more detailed sub-categories.<sup>8</sup>

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By: The Commission

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<sup>6</sup> To the extent that some filers commented on issues other than those on which the *Public Notice* sought comment (whether the Commission should conform these two forms to the revised EEO-1 standards and whether doing so would be consistent with Sections 334 and 634 of the Act), those comments are outside the scope of the *Public Notice* and therefore are not addressed herein.

<sup>7</sup> 47 U.S.C. § 334(c).

<sup>8</sup> 47 U.S.C. § 554.